

## State of South Carolina



## Public Service Commission

RUDOLPH MITCHELL

Chairman

GUY BUTLER

Vice Chairman

CORY A. BOWERS

Commissioner

WARREN D. ARTHUR, IV

Commissioner

WILLIAM "BILL" SAUNDERS

Commissioner

C. DUKES SCOTT

Commissioner

PHILIP T. BRADLEY

Commissioner

CHARLES W. BALLENGER

Executive Director

(803) 737-5120

GARY K. WALSH

Deputy Executive Director

(803) 737-5133

May 15, 1996

DOCKET FILE COPY ORIGINAL

Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Dear Sir or Madam:

Subject: Notice of Proposed Rulemaking CC Docket No. 96-98

Enclosed are reply comments of the South Carolina Public Service Commission to the FCC Proposal To Implement Section 251 of the Telecommunications Act of 1996 as requested in the Notice of Proposed Rulemaking CC Docket No. 96-98.

Please contact me at 803-737-5124 if you have any questions or comments concerning this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Glenn Rhyne".

R. Glenn Rhyne, Manager  
Research Department

A large, stylized handwritten signature in dark ink, possibly reading "J. B. Rhyne".

Handwritten initials or a signature in dark ink, possibly reading "C. B. Rhyne".

**SOUTH CAROLINA PUBLIC SERVICE COMMISSION****Comments on CC Docket No. 96-98**

**The Notice of Proposed Rulemaking in the Matter of  
Implementation of the Local Competition Provisions in the  
Telecommunications Act of 1996**

The Federal Communication Commission (FCC) relies on Sections 151 and 152 of the Telecommunications Act of 1996 to establish pricing principles interpreting and further explaining the provisions of Section 252(d) for the states to apply in establishing rates in arbitrations and reviewing BOC statements of generally available terms and conditions. Section 251(c)(2)(D) requires that incumbent LECs provide interconnection "on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with ... the requirements of this section and Section 252." Section 251(c)(3) requires incumbent LECs to provide "nondiscriminatory access to network elements on an unbundled basis ... on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with ... the requirements of this section and Section 252." Section 251(c)(6) requires incumbent LECs to provide "on rates, terms, and conditions that are just, reasonable, and

S.C. Public Service Commission  
Comments on CC Docket No. 96-98  
May 15, 1996

nondiscriminatory, for physical collocation of equipment."  
Section 252(d)(1) provides that state determinations of the just and reasonable rate for the interconnection of facilities and equipment for purposes of subsection (c)(2) of Section 251, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section \_\_\_\_

- (A) shall be (i) based on cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element ... and (ii) nondiscriminatory. and
- (B) may include a profit.

Clearly, Section 252 gives the states the authority to determine just and reasonable rates for interconnection and providing network elements. The only restrictions appear to be that the rates are based on cost and are nondiscriminatory. Nothing in Sections 251 and 252 expressly gives the FCC authority to establish pricing principles. The FCC interpretation of Sections 251 and 252 to provide it with pricing authority is in error and is a usurpation of the authority of the states.

The South Carolina Public Service Commission also strongly supports the NARUC position that State authority and

S.C. Public Service Commission  
Comments on CC Docket No. 96-98  
May 15, 1996

flexibility is necessary for the following:

(A) pricing standards

- (1) interconnection/unbundled elements
- (2) transport and termination of traffic
- (3) resale (including determination of inputs on avoided costs)

(B) terms and conditions of interconnection

(C) terms and conditions of resale

(D) arbitration process (including recovery of dialing parity implementation costs).

State authority and flexibility over these issues is necessary to accommodate the various goals, objectives, and conditions in each state. Each state can address these issues through policies and procedures that are competitively neutral and nondiscriminatory.

The role of the FCC should serve to support the negotiation process as set forth within Sections 251-252 of the Telecommunications Act of 1996. The South Carolina Public Service Commission believes that the Act clearly establishes the intent that the parties are to initially seek to negotiate interconnection agreements, and the States are to conduct arbitration proceedings should negotiations fail. Under the Act the States are given the right to review interconnection

S.C. Public Service Commission

Comments on CC Docket No. 96-98

May 15, 1996

agreements submitted to them for approval. No action by the FCC should undermine the States role within this process. Any efforts by the FCC to establish uniform national standards applicable to the terms and conditions for local interconnection should not restrict the implementation of local competition and must allow for unique local conditions where necessary and appropriate. If a uniform national process is to be devised, it should not minimize the ability of the parties to carry out "good faith" negotiations resulting in mutually acceptable outcomes. A uniform national process should function only as a means of providing nonmandatory guidelines.

## State of South Carolina



## Public Service Commission

CHARLES W. BALLANTINE  
*Executive Director*  
 (803) 737-5120

GARY H. WALSH  
*Deputy Executive Director*  
 (803) 737-5133

RUDOLPH MERTZKE  
*Chairman*  
 CHRY HUTLER  
*Vice Chairman*  
 OWEN A. DOWNS  
*Commissioner*  
 WARREN D. ARTHUR, IV  
*Commissioner*  
 WILLIAM "Bill" SAUNDERS  
*Commissioner*  
 C. DUKES SCOTT  
*Commissioner*  
 PHILIP T. BRADLEY  
*Commissioner*

May 15, 1996

Janice Myles  
 Common Carrier Bureau  
 1919 M Street, N.W., Room 544  
 Washington, D.C. 20554

Dear Janice:

Subject: Notice of Proposed Rulemaking CC Docket No. 96-98

Enclosed are reply comments of the South Carolina Public Service Commission to the FCC Proposal To Implement Section 251 of the Telecommunications Act of 1996 as requested in the Notice of Proposed Rulemaking CC Docket No. 96-98.

Please contact me at 803-737-5124 if you have any questions or comments concerning this matter.

Sincerely,

R. Glenn Rhyne, Manager  
 Research Department